



of *Permanent Impairment* which was applicable beginning May 1, 2009.<sup>2</sup> On remand the Board directed OWCP to refer the medical evidence to a new OWCP medical adviser and request a report addressing appellant's permanent impairment in accordance with the standards of the sixth edition of the A.M.A., *Guides*.<sup>3</sup> The facts and the circumstances of the case as set forth in the Board's prior decision are adopted herein by reference.

On remand, Dr. H. Mobley, an OWCP medical adviser, noted that Dr. Ronald Blum, also an OWCP medical adviser, on November 20, 2009 determined that appellant had seven percent impairment of the right lower extremity due to motor and sensory deficits. He also mentioned that he had previously determined that appellant had 29 percent impairment of his right lower extremity on April 29, 1996. Dr. Mobley stated, "These two awards are for the same [right lower extremity] sensory and motor impairment. Therefore, the claimant is not due additional schedule award as a result of Dr. Blum's determination, *i.e.*, 0 percent [right lower extremity]."

By decision dated July 7, 2011, OWCP denied appellant's claim for an additional schedule award based on Dr. Mobley's review of the medical evidence.<sup>4</sup>

The schedule award provision of FECA<sup>5</sup> and its implementing regulations<sup>6</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment for loss or loss of use of scheduled members or functions of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.<sup>7</sup>

The Board previously remanded the case for an OWCP medical adviser to review the medical evidence and apply the sixth edition of the A.M.A., *Guides* to determine if appellant has more than 29 percent impairment for which he received a schedule award. OWCP did not follow the Board's directive in developing and assessing the medical evidence. Dr. Mobley merely reviewed the previous calculations which were based on the fifth edition of the A.M.A., *Guides*, rather than applying the sixth edition of the A.M.A., *Guides* to the medical evidence as directed

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<sup>2</sup> For new decisions issued after May 1, 2009 OWCP began using the sixth edition of the A.M.A., *Guides*. A.M.A., *Guides*, 6<sup>th</sup> ed. (2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6a (January 2010); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

<sup>3</sup> Docket No. 10-1500 (issued April 12, 2011).

<sup>4</sup> On appeal to the Board appellant submitted new evidence. As OWCP did not consider this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

<sup>5</sup> 5 U.S.C. §§ 8101-8193, 8107.

<sup>6</sup> 20 C.F.R. § 10.404.

<sup>7</sup> See *supra* note 2.

by the Board. The Board must again remand the case for detailed application of the sixth edition of the A.M.A., *Guides* to the medical reports of record and for a determination of whether appellant is entitled to an additional schedule award of his right lower extremity due to motor and sensory deficits.

**IT IS HEREBY ORDERED THAT** the July 7, 2011 decision of the Office of Workers' Compensation Programs is set aside and remanded for further development consistent with this order of the Board.

Issued: July 12, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board